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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
GARY JAMES ROLLER, )  
 )  
Defendant. )  
 )  
 )  
 )  
 )  
 )

No. CR 08-00361 RMW

**STIPULATION AND []  
ORDER CONTINUING MOTIONS  
HEARING FROM MAY 11, 2009 TO  
MAY 18, 2009 AND EXCLUDING TIME  
FROM MAY 11, 2009 TO MAY 18,  
2009, FROM CALCULATIONS UNDER  
THE SPEEDY TRIAL ACT (18 U.S.C. §  
3161)**

The parties hereby request that the Court enter this order continuing the motions hearing from May 11, 2009 to May 18, 2009, and excluding time from May 11, 2009 through May 18, 2009. The parties, including the defendant, stipulate as follows:

1. The defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, for the period from May 11, 2009 through May 18, 2009 based upon the need for the defense counsel to investigate further the facts of the present case and determine what, if any, additional motions are appropriate. The government has produced discovery in this case and the defense counsel and defendant require additional time to review

1 and analyze this discovery. In addition, on March 2, 2009, defendant filed a motion to suppress,  
2 a motion for a bill of particulars and a motion to strike one of the counts as multiplicitous.  
3 Argument for all of these motions are currently scheduled to be heard on May 11, 2009. Defense  
4 counsel needs additional time to prepare for the motions hearing. In addition, government  
5 counsel will be unavailable on May 11, 2009 due to a family situation. Therefore, for effective  
6 preparation and continuity of counsel and consideration of defendant's motion by the Court, the  
7 parties agree that the motions hearing currently scheduled for May 11, 2009 and should be  
8 continued to May 18, 2009 at 9 a.m.

9 2. The attorney for defendant joins in the request to exclude time under the Speedy Trial  
10 Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for  
11 effective preparation of the defense; believes the exclusion is in the defendant's best interests;  
12 and further agrees that the exclusion under the Speedy Trial Act, 18 U.S.C. § 3161, should be for  
13 the period May 11, 2009 through May 18, 2009.

14 Given these circumstances, the parties believe, and request that the Court find, that the  
15 ends of justice are served by excluding from calculations the period from May 11, 2009 through  
16 May 18, 2009 outweigh the best interests of the public and the defendant in a speedy trial under  
17 the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) & (B)(iv).

18 IT IS SO STIPULATED.

19 DATED: April 14, 2009

/s/ Richard Pointer  
RICHARD POINTER

22 DATED: April 14, 2009

/s/ Hanley Chew  
HANLEY CHEW  
Assistant United States Attorney

24 **[] ORDER**

25 Having considered the stipulation of the parties, the Court finds that: (1) the defendant  
26 understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18  
27 U.S.C. § 3161, May 11, 2009 through May 18, 2009, based upon continuity of defense counsel,  
28

1 the need for the defense counsel to investigate further the facts of the present case, review the  
2 discovery that the government has already provided and evaluate further possible defenses and  
3 motions available to the defendant; (2) the exclusion of time is necessary for effective  
4 preparation of the defense and continuity of counsel and is in the defendant's best interests; and  
5 (3) the ends of justice are served by excluding from Speedy Trial calculations the period May 11,  
6 2009 through May 18, 2009.

7 Accordingly, the Court further orders that (1) the motions hearing set for May 11, 2009 is  
8 vacated and that the next appearance date before this Court is scheduled for May 18, 2009 at  
9 9:00 a.m.; and (2) the time May 11, 2009 through May 18, 2009 is excluded from time  
10 calculations under the Speedy Trial Act, 18 U.S.C. § 3161.

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12 IT IS SO ORDERED.

13 DATED: 7/16/09  
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15 THE HONORABLE RONALD M. WHYTE  
16 United States District Court Judge  
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